

110TH CONGRESS
2D SESSION

S. 3387

To amend the Public Health Service Act with respect to pain care.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. HATCH (for himself and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act with respect to
pain care.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Pain Care Policy Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Institute of Medicine Conference on Pain.
- Sec. 4. Pain Consortium at National Institutes of Health.
- Sec. 5. Pain care education and training.
- Sec. 6. Public awareness campaign on pain management.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) pain is the most common reason Americans
4 access the health care system and is a leading con-
5 tributor to health care costs;

6 (2) most painful conditions can be relieved with
7 proper treatment, and providing adequate pain man-
8 agement is a crucial component of improving and
9 maintaining quality of life for patients, survivors,
10 and their loved ones;

11 (3) pain is a leading cause of lost productivity,
12 temporary disability, and permanent disability in the
13 American workforce;

14 (4) pain affects Americans across all ages, in-
15 cluding children. It can occur at any stage of dis-
16 ease, affecting patients in active treatment, survivors
17 who have completed treatment, and those at the end
18 of life;

19 (5) in some cases pain is the disease itself and
20 in others it is caused by or related to other diseases
21 and conditions;

22 (6) either acute or chronic pain may accompany
23 other health conditions that are prevalent in the
24 Medicare and Medicaid populations, including can-
25 cer, arthritis, diabetes, and cardiovascular disease;

1 (7) pain is often improperly assessed,
2 misdiagnosed, mistreated, or undertreated;

3 (8) disparities in the assessment, diagnosis, and
4 treatment of pain across racial and ethnic groups,
5 particularly at the end of life, are well documented;

6 (9) pain research funding represents less than
7 2 percent of the annual research expenditures of the
8 National Institutes of Health;

9 (10) pain research needs better planning and
10 coordination across the many institutes, centers, and
11 programs of the National Institutes of Health;

12 (11) many health care professionals are inad-
13 equately trained in the proper assessment, diagnosis,
14 treatment, and management of pain;

15 (12) patients in pain face significant barriers
16 that can prevent proper assessment, diagnosis, treat-
17 ment, and management of their pain; and

18 (13) improving pain care research, education,
19 access, and care are national health care priorities of
20 the United States.

21 **SEC. 3. INSTITUTE OF MEDICINE CONFERENCE ON PAIN.**

22 (a) CONVENING.—Not later than June 30, 2009, the
23 Secretary of Health and Human Services shall seek to
24 enter an agreement with the Institute of Medicine of the

1 National Academies to convene a Conference on Pain (in
2 this section referred to as “the Conference”).

3 (b) PURPOSES.—The purposes of the Conference
4 shall be to—

5 (1) increase the recognition of pain as a signifi-
6 cant public health problem in the United States;

7 (2) evaluate the adequacy of assessment, diag-
8 nosis, treatment, and management of acute and
9 chronic pain in the general population, and in identi-
10 fied racial, ethnic, gender, age, and other demo-
11 graphic groups that may be disproportionately af-
12 fected by inadequacies in the assessment, diagnosis,
13 treatment, and management of pain;

14 (3) identify barriers to appropriate pain care,
15 including—

16 (A) lack of understanding and education
17 among employers, patients, health care pro-
18 viders, regulators, and third-party payors;

19 (B) barriers to access to care at the pri-
20 mary, specialty, and tertiary care levels, includ-
21 ing barriers—

22 (i) specific to those populations that
23 are disproportionately undertreated for
24 pain;

1 (ii) related to physician concerns over
2 regulatory and law enforcement policies
3 applicable to some pain therapies; and

4 (iii) attributable to benefit, coverage,
5 and payment policies in both the public
6 and private sectors; and

7 (C) gaps in basic and clinical research on
8 the symptoms and causes of pain, and potential
9 assessment methods and new treatments to im-
10 prove pain care; and

11 (4) establish an agenda for action in both the
12 public and private sectors that will reduce such bar-
13 riers and significantly improve the state of pain care
14 research, education, and clinical care in the United
15 States.

16 (c) OTHER APPROPRIATE ENTITY.—If the Institute
17 of Medicine declines to enter into an agreement under sub-
18 section (a), the Secretary of Health and Human Services
19 may enter into such agreement with another appropriate
20 entity.

21 (d) REPORT.—A report summarizing the Con-
22 ference's findings and recommendations shall be sub-
23 mitted to the Congress not later than June 30, 2010.

24 (e) AUTHORIZATION OF APPROPRIATIONS.—For the
25 purpose of carrying out this section, there are authorized

1 to be appropriated such sums as may be necessary for fis-
 2 cal years 2009 and 2010.

3 **SEC. 4. PAIN CONSORTIUM AT NATIONAL INSTITUTES OF**
 4 **HEALTH.**

5 Section 401(c)(2) of the Public Health Service Act
 6 (42 U.S.C. 281(c)(2)) is amended—

7 (1) by redesignating subparagraph (B) as sub-
 8 paragraph (C); and

9 (2) by inserting after subparagraph (A) the fol-
 10 lowing:

11 “(B) PAIN CONSORTIUM.—

12 “(i) ESTABLISHMENT.—The Director
 13 of NIH shall establish within the Division
 14 an office to be known as the Pain Consor-
 15 tium (referred to in this subparagraph as
 16 the ‘Consortium’).

17 “(ii) PURPOSES.—The purposes of the
 18 Consortium shall be to—

19 “(I) establish and maintain a na-
 20 tional agenda for basic and clinical re-
 21 search on the causes and effective
 22 treatments for pain;

23 “(II) coordinate and promote the
 24 pain research, research training, and
 25 other pain-related activities being car-

ried out in and across the institutes,
centers, and programs of the National
Institutes of Health;

“(III) convene an annual conference of prominent intramural and extramural experts in pain research, treatment, and management to assess and make recommendations with respect to the pain research activities and programs of the National Institutes of Health; and

“(IV) take such other actions as may be appropriate with respect to research on the causes and effective treatments for pain.

“(iii) REPRESENTATION OF INSTITUTES.—The Consortium shall include the heads of the institutes, centers, and programs of the National Institutes of Health involved in pain research, as determined by the Director of NIH.

“(iv) CHAIR.—The Consortium shall be chaired by the Director of the National Institute of Neurological Disorders and

1 Stroke, and shall have such co-chairs as
2 the Director of NIH shall determine.

3 “(v) ADVISORY COMMITTEE.—

4 “(I) ESTABLISHMENT.—The Di-
5 rector of NIH shall establish an advi-
6 sory committee to the Consortium to
7 be known as the National Pain Care
8 Research Advisory Committee (in this
9 section referred to as the ‘Advisory
10 Committee’).

11 “(II) ESTABLISHMENT.—The
12 Advisory Committee shall be estab-
13 lished and maintained in accordance
14 with the Federal Advisory Committee
15 Act (5 U.S.C. Appendix).

16 “(III) MEMBERSHIP.—The mem-
17 bers of the Advisory Committee shall
18 consist of voting appointed members
19 and nonvoting ex officio members as
20 follows:

21 “(aa) The voting appointed
22 members of the Advisory Com-
23 mittee shall be appointed by the
24 Director of NIH and shall in-
25 clude representatives of the broad

1 range of medical, health, and sci-
 2 entific disciplines involved in pain
 3 research and pain care, including
 4 individuals with expertise and
 5 training in pain medicine, pain
 6 management, neuroscience, psy-
 7 chology, social work, pharmacy
 8 and pharmacology, nursing, den-
 9 tistry, and physical and occupa-
 10 tional therapy, and patient rep-
 11 resentatives.

12 “(bb) The nonvoting ex offi-
 13 cio members of the Advisory
 14 Committee shall be the Chair of
 15 the Consortium and such officials
 16 as the Director of NIH shall des-
 17 ignate.

18 “(IV) DUTIES.—The Advisory
 19 Committee shall advise, assist, consult
 20 with, and make recommendations to
 21 the Consortium regarding the matters
 22 set forth in clause (ii).”.

23 **SEC. 5. PAIN CARE EDUCATION AND TRAINING.**

24 (a) PAIN CARE RESEARCH AND QUALITY.—Part A
 25 of title IX of the Public Health Service Act (42 U.S.C.

1 299 et seq.) is amended by adding at the end the fol-
2 lowing:

3 **“SEC. 904. PROGRAM FOR PAIN CARE RESEARCH AND**
4 **QUALITY.**

5 “(a) IN GENERAL.—The Director shall carry out a
6 program—

7 “(1) to collect protocols and evidence-based
8 practices regarding pain care at all stages of life;
9 and

10 “(2) to disseminate such information to Fed-
11 eral, State, and local regulatory and enforcement
12 agencies, public and private health care programs,
13 payors and providers, health professions schools,
14 hospices, and the general public.

15 “(b) CONSULTATION.—In carrying out this section,
16 the Secretary shall consult with organizations representing
17 patients in pain and other consumers, employers, physi-
18 cians including physicians specializing in pain care, other
19 pain management professionals, medical device manufac-
20 turers, and pharmaceutical companies.

21 “(c) DEFINITION.—For purposes of this section, the
22 term ‘pain care’ means the assessment, diagnosis, treat-
23 ment, or management of acute or chronic pain regardless
24 of causation or body location.”.

1 (b) EDUCATION AND TRAINING IN PAIN AND PALLIA-
 2 TIVE CARE.—Part D of title VII of the Public Health
 3 Service Act (42 U.S.C. 294 et seq.) is amended—

4 (1) by redesignating sections 754 through 758
 5 as sections 755 through 759, respectively; and

6 (2) by inserting after section 753 the following:

7 **“SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN**
 8 **PAIN CARE.**

9 “(a) IN GENERAL.—The Secretary, in consultation
 10 with the Director of the Agency for Healthcare Research
 11 and Quality, may make awards of grants, cooperative
 12 agreements, and contracts to health professions schools,
 13 hospices, and other public and private entities for the de-
 14 velopment and implementation of programs to provide
 15 education and training to health care professionals in pain
 16 care.

17 “(b) PRIORITIES.—In making awards under sub-
 18 section (a), the Secretary shall give priority to awards for
 19 the implementation of programs under such subsection.

20 “(c) CERTAIN TOPICS.—An award may be made
 21 under subsection (a) only if the applicant for the award
 22 agrees that the program carried out with the award will
 23 include information and education on—

24 “(1) recognized means for assessing, diag-
 25 nosing, treating, and managing pain and related

1 signs and symptoms, including the medically appro-
2 priate use of controlled substances;

3 “(2) applicable laws, regulations, rules, and
4 policies on controlled substances, including the de-
5 gree to which misconceptions and concerns regarding
6 such laws, regulations, rules, and policies, or the en-
7 forcement thereof, may create barriers to patient ac-
8 cess to appropriate and effective pain care;

9 “(3) interdisciplinary approaches to the delivery
10 of pain care, including delivery through specialized
11 centers providing comprehensive pain care treatment
12 expertise;

13 “(4) cultural, linguistic, literacy, geographic,
14 and other barriers to care in underserved popu-
15 lations; and

16 “(5) recent findings, developments, and im-
17 provements in the provision of pain care.

18 “(d) PROGRAM SITES.—Education and training
19 under subsection (a) may be provided at or through health
20 professions schools, residency training programs, and
21 other graduate programs in the health professions, entities
22 that provide continuing education related to health profes-
23 sions, and such other programs or sites as the Secretary
24 determines to be appropriate.

1 “(e) EVALUATION OF PROGRAMS.—The Secretary
 2 shall (directly or through grants or contracts) provide for
 3 the evaluation of programs implemented under subsection
 4 (a) in order to determine the effect of such programs on
 5 knowledge and practice of pain care.

6 “(f) PEER REVIEW GROUPS.—In carrying out section
 7 799(f) with respect to this section, the Secretary shall en-
 8 sure that the membership of each peer review group in-
 9 volved includes individuals with expertise and experience
 10 in pain care.

11 “(g) DEFINITIONS.—For purposes of this section the
 12 term ‘pain care’ means the assessment, diagnosis, treat-
 13 ment, or management of acute or chronic pain regardless
 14 of causation or body location.”.

15 (c) AUTHORIZATION OF APPROPRIATIONS.—Sub-
 16 paragraph (C) of section 758(b)(1) of the Public Health
 17 Service Act (as redesignated by subsection (a)(1) of this
 18 section) is amended—

19 (1) by striking “sections 753, 754, and 755”
 20 and inserting “section 753, 754, 755, and 756”; and

21 (2) by striking “not less than \$22,631,000”
 22 and inserting “such sums as may be necessary”.

23 (d) TECHNICAL AMENDMENT.—Paragraph (2) of
 24 section 757(b) of the Public Health Service Act (as red-
 25 igned by subsection (a)(1)) is amended by striking

1 “754(3)(A), and 755(b)” and inserting “755(3)(A), and
2 756(b)”.

3 **SEC. 6. PUBLIC AWARENESS CAMPAIGN ON PAIN MANAGE-**
4 **MENT.**

5 Part B of title II of the Public Health Service Act
6 (42 U.S.C. 238 et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 249. NATIONAL EDUCATION OUTREACH AND AWARE-**
9 **NESS CAMPAIGN ON PAIN MANAGEMENT.**

10 “(a) ESTABLISHMENT.—Not later than June 30,
11 2009, the Secretary shall establish and implement a na-
12 tional pain care education outreach and awareness cam-
13 paign described in subsection (b).

14 “(b) REQUIREMENTS.—The Secretary shall design
15 the public awareness campaign under this section to edu-
16 cate consumers, patients, their families, and other care-
17 givers with respect to—

18 “(1) the incidence and importance of pain as a
19 national public health problem;

20 “(2) the adverse physical, psychological, emo-
21 tional, societal, and financial consequences that can
22 result if pain is not appropriately assessed, diag-
23 nosed, treated, or managed;

24 “(3) the availability, benefits, and risks of all
25 pain treatment and management options;

1 “(4) having pain promptly assessed, appro-
2 priately diagnosed, treated, and managed, and regu-
3 larly reassessed with treatment adjusted as needed;

4 “(5) the role of credentialed pain management
5 specialists and subspecialists, and of comprehensive
6 interdisciplinary centers of treatment expertise;

7 “(6) the availability in the public, nonprofit,
8 and private sectors of pain management-related in-
9 formation, services, and resources for consumers,
10 employers, third-party payors, patients, their fami-
11 lies, and caregivers, including information on—

12 “(A) appropriate assessment, diagnosis,
13 treatment, and management options for all
14 types of pain and pain-related symptoms; and

15 “(B) conditions for which no treatment op-
16 tions are yet recognized; and

17 “(7) other issues the Secretary deems appro-
18 priate.

19 “(c) CONSULTATION.—In designing and imple-
20 menting the public awareness campaign required by this
21 section, the Secretary shall consult with organizations rep-
22 resenting patients in pain and other consumers, employ-
23 ers, physicians including physicians specializing in pain
24 care, and other pain management professionals.

25 “(d) COORDINATION.—

1 “(1) LEAD OFFICIAL.—The Secretary shall des-
2 ignate one official in the Department of Health and
3 Human Services to oversee the campaign established
4 under this section.

5 “(2) AGENCY COORDINATION.—The Secretary
6 shall ensure the involvement in the public awareness
7 campaign under this section of the Surgeon General
8 of the Public Health Service, the Director of the
9 Centers for Disease Control and Prevention, and
10 such other representatives of offices and agencies of
11 the Department of Health and Human Services as
12 the Secretary determines appropriate.

13 “(e) UNDERSERVED AREAS AND POPULATIONS.—In
14 designing the public awareness campaign under this sec-
15 tion, the Secretary shall—

16 “(1) take into account the special needs of geo-
17 graphic areas and racial, ethnic, gender, age, and
18 other demographic groups that are currently under-
19 served; and

20 “(2) provide resources that will reduce dispari-
21 ties in access to appropriate diagnosis, assessment,
22 and treatment.

23 “(f) GRANTS AND CONTRACTS.—The Secretary may
24 make awards of grants, cooperative agreements, and con-
25 tracts to public agencies and private nonprofit organiza-

1 tions to assist with the development and implementation
2 of the public awareness campaign under this section.

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—For
4 purposes of carrying out this section, there are authorized
5 to be appropriated such sums as may be necessary for
6 each of fiscal years 2009, 2010, and 2011.”.

○